

November 14, 2005

Arthur Neal, Director of Program Administration
National Organic Program, USDA-AMS-TMP-NOP
1400 Independence Ave. S.W.
Room 4008-So., Ag Stop 0268
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Email Comments: National.List@usda.gov

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Overview

We are pleased and encouraged with the release of this proposed Federal Register Amendment, and therefore we can support this docket with minor but significant revisions. Annotation language attached to materials to be added to 205.605(b) limiting use to products “Made With Organic...” should be dropped. The annotation for Ammonium Hydroxide should be extended. These changes reflect the intent of the National Organic Standards Board at the time of approval. We also feel that delays between the time of NOSB approval and the release of this proposal are unacceptable.

General Comments

CROPP Cooperative is a 17 year old, 725 member, \$240 million per year organic cooperative. We have always taken a leadership role in the development, implementation and monitoring of organic standards. We like the revised format of this proposal. The inclusion of summary decision language along with the citation of related federal regulation provides a concise and straightforward overview to each material making comment much easier, especially by commenters not privy to the long process by which such decisions go through. In this case the information served as catch up as well since the petition and discussion of some of these material decisions date back 5 or more years, predating the final proposed rule and in many cases the focus by many of today’s players. This revised format could be even more helpful with the inclusion of key information such as Name of Petitioner and Date, TAP Completion date, Date of Committee Review, Date of NOSB decision and Minority opinion if included. In the case of some materials such as the Boiler Additives such information would portray to the reader the length and complexity of these discussions. We do appreciate the Exclusion of the vote tallies by Committee and the NOSB. Once a material is approved such details should become part of the historic record but not a fact to perpetuate division.

As mentioned above we are concerned with the unacceptable delays between NOSB approval and NOP action on many of the materials in this docket. Two years is the commonly referenced timeline for the petition process. Of the fifteen materials in this docket only two meet those criteria. We are encouraged at the timeliness of these two materials particularly Ferric phosphate which is proposed for addition seven months after NOSB approval and which may be added with a year. Since this material was petitioned in 2004 the process is close to the tolerable two year limit.

Of the fifteen materials proposed for addition to section 605 one of these materials, **Ammonium Hydroxide** will be vacated from the National List before it was ever even added. This was clearly not the intention of the NOSB when it was approved for inclusion. Their intent was to allow the industry to use the materials for three years instead of the requisite five in order to encourage users to find alternatives with minimal disruption to manufacturing. The net effect of this delay is to prohibit the materials from ever being used thereby hindering the industry. Two more of these materials; **Glycerine Oleate** and **Tetrahydrofurfuryl alcohol** are scheduled to vacate within a year of being added to the list. This is a concern since the annotation was crafted to coincide with the EPA plan to review Class 3 inerts for reclassification to either Class 2 or Class 4.

The addition of these fifteen materials is encouraging but it needs to be stated that there is a long list of livestock materials pending addition. The publication of these materials to the national list is long overdue causing unnecessary hardship on organic livestock producers.

Specific Comments

Of the four materials proposed to addition to 205.601 Synthetic Substances Allowed for Use in Organic Crop Production two should be added to the list as proposed. Two others should be reevaluated prior to being added to the list.

Hydrogen Chloride and **Ferric phosphate** should be added to the list following this comment period.

The Dec 31 2006 annotation assigned to **Glycerine Oleate**, and **Tetrahydrofurfuryl alcohol** are intended to coincide with the EPA deadline for review. It is important that these dates remain synchronized. If the EPA cannot meet this deadline then the annotation should be revisited and adjusted accordingly.

205.605(a) materials

The three materials proposed for addition to 205.605(a), **Egg White Lysozyme**, **L-Malic Acid**, and **Microorganisms** should all be added to the National List as proposed in this docket. Since they were all approved in May 2003 all three are being added with a process that is inexcusably long.

Comments specific to **Microorganisms**. While we fully support the addition of microorganisms to the List we have significant concern about adding this material in light of current NOSB attempts to define Agricultural versus Non-agricultural. The addition of Dairy Cultures and Yeast to the list was short sighted since the limiting language did not allow cultures used in other fermented foods. At the same time it is our opinion that cultures and yeast can be produced organically and that it is clearly in the best interest of the organic movement to promote such production and use. Hopefully the listing of microorganisms as allowed will not preclude their additional categorization as organic.

205.605(b) materials

There are two major issues with the proposed language regarding the seven materials listed in this section.

First, in each case this document proposes listing them allowed only for products labeled “Made With Organic...” in deference to NOSB recommendation. It is understandable that NOP added this language in anticipation of the Harvey v Johanns suit. However, the landscape has changed

since this docket was released and it would appear that the current paradigm of organic standards will continue to allow approved synthetic materials in products labeled “Organic”.

The materials listed for addition to 205.605(b) should be added without the annotation language limiting them to products “Made With Organic...”.

Second, this proposal conflicts with the NOP Food Contact Substance Policy dated December 12, 2002 which exempts materials listed by the FDA as Secondary Direct Food Additives or Food Contact Substances. It is unclear how these two policies will coexist and how they will affect the users of these materials.

Comments specific to;

Ammonium Hydroxide: As the petitioner of this material in November 2000 we are extremely disappointed in the way Boiler Chemicals and particularly this material have been handled. The NOSB approved this material in October 2001 for use until October 21, 2005 in order to encourage processors to find an alternative method. The *intent* of the NOSB was to allow three years for this process. The sunset that they proposed never happened because the sun never rose on Ammonium Hydroxide. It is this sort of delay and confusion that discouraged parties from petitioning new materials and makes processing facilities reluctant to partner with organic clients.

Ammonium Hydroxide should be added to the National List with the annotation “For use only as a boiler water additive until January 31, 2009. Three years from publication into the National List.

Peracetic acid/Peroxyacetic acid: We are pleased that after nearly six years in the approval process, five years after NOSB approval that this material is finally being added to the National List. Except for the language restricting its use to foods “Made With Organic” discussed earlier we agree and approve of the NOP revision of the NOSB original annotation. These revisions accurately align the NOSB annotation with FDA regulation while maintaining the original intent of the NOSB. These are exactly the type of editing that is expected and appreciated from NOP.

Summary

With this third docket adding approved materials to the National List the process appears to be maturing. There are however, significant, unacceptable problems impeding the goal of a two year process to add materials to the National List. These delays must be addressed and corrected, the health and growth of the Organic Movement depends on it.

The remaining materials that have been approved by the NOSB need to be published to the Federal Register soon. We again thank you for this docket and look forward to the next one.

Respectfully

/s/

Jim Pierce

Certification Czar

Organic Valley/CROPP Cooperative



Mr. Arthur Neal
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Reference Document Number TM – 04-01

Dear Mr. Neal

CROPP Cooperative is a producer and handler of certified organic livestock and consumer-ready products – and would prefer to use *peracetic acid in and/or on products labeled Organic*.

Therefore we are requesting the *National Organic Program (NOP)* to permit the use of:

Peracetic Acid/Peroxyacetic Acid – 205.605(b)

*“For use in wash and/or rinse water according to FDA Limitations. For use as a sanitizer on food contact surfaces on agricultural products labeled - **Organic**”.*

And:

Peracetic Acid/Peroxyacetic Acid (205.603(a)).

For the use in/or on facilities and processing equipment sanitation (barns, milking parlors, processing areas).

Clearly this was the intent of the *National Organic Standards Board (NOSB)* unanimous vote and recommendations to place “*Peracetic Acid* on the *National List of Materials for Livestock and Handling*” as was done for *Organic Crops*.

We appreciate your reconsideration and action relative to our request and look forward to a change of status of *Peracetic Acid* for the use of and/or on agricultural products labeled “*Organic*” in the **Final Rule**.

Thank you.

A handwritten signature in cursive script, appearing to read "Jim Prentice".

Cc;
Tom Harding, AgriSystems International
Kris Prentice Ecolab, Inc.